

### **REMARKS**

These amendments and remarks are in response to the Office Action dated January 27, 2012. This amendment is timely filed.

At the time of the Office Action, claims 1-15 were pending, with claims 6 and 10-15 being withdrawn from consideration based on a restriction election. In the Office Action, claims 1-5 and 7-9 were rejected under 35 U.S.C. §102(e). Claims 1 and 4 were rejected under 35 U.S.C. §102(b). The rejections are discussed in more detail below.

#### **I. Rejections under 35 U.S.C. §102**

Claims 1-3, 5, 8 and 9 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2008/0086854 to Boyd et al. ("Boyd"). Claims 1-3 and 7-9 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,117,703 to Kato ("Kato"). Claims 1 and 4 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,590,232 to Sadowski. Applicants respectfully submits that the claims are patentable over these references.

Applicant maintains that Boyd does not disclose at least the following features of claim 1:

- It is not an instrument for high-precision or surgical applications of a minimally invasive nature. Boyd relates generally to the art of fasteners and methods of fastening (see its paragraph 2).
- It does not comprise a distally positioned directable head, a shaft upon which the head is positioned, and a proximal end equipped for directing the directable head with reference to the shaft. In Boyd, the head is not directable with reference to the shaft but assumes a preferential position caused by the act of pulling the proximal end 24 of the tensioning member 12, which places the inner tensioning member 12 in tension. As a result the flexible areas or compression features 28 of the compression member 14 become compressed resulting in the preferred bended shape of the compression member 14 as shown in figure 4. This has nothing to do with placing the directable head of the instrument of the invention in a desired

position. The directable head of this instrument has no preferential position but can be given a direction selected by the operator using for this purpose the proximal end.

- It does not show that a ring of cables comprising longitudinally extending cables connects to the directable head. The reason is that as just mentioned the head in Boyd is not directable.
- It does not show that the cables are fixedly secured in the radial direction. On the contrary, in Boyd the cables must be capable of moving in the radial direction and must not occupy all space within the shaft 14. If all space within the shaft 14 was occupied, the cables could not move radially and this would prevent the compression of the compression member 14. Boyd would then not be functional.

Boyd therefore does not teach or suggest an instrument as defined in the present claims. Similarly, Kato is also not destructive of the patentability of claim 1. Kato deals with providing the wire-stranded hollow coil body 1 (fig. 1-5) with a high rotation following capability in which rotation of the thin flexible wire at one end is smoothly and efficiently transmitted to the other end of the thin flexible wire when one end of the thin flexible wire is rotated around the axial hollow portion 3 (Column 6, lines 20-25).

With reference to figures 27 and 28, Kato explains a difference of the device described therein in comparison with the prior art. Figure 28 shows that a multi-wound coil sheath 42A exhibits a wide gap S between neighboring coil line elements when abruptly bended upon inserting into a somatic body (Column 10, lines 33-37). The Kato device has a sheath 42 with a high rotation following capability and high straightness due to the wire stranded hollow coil configuration, making it possible to prevent a wider gap S from appearing between the neighboring coil line elements when abruptly bended (Column 10, lines 41-50). Consequently, Kato misses the feature of the claims relating to an instrument for high precision or surgical applications of a minimally invasive nature having a head which is directable with reference to the shaft by operating the proximal end.

Kato also does not teach a ring of longitudinally extending cables which provide the

operational connection between the proximal end and the directable head. In the Kato reference a separate manipulation rope 43 (see figures 27, 28) is applied to operate the front biopsy cup 41 (Column 10, lines 23-26). Kato therefore does not teach or suggest an instrument as defined in the present claims.

Sadowski concerns a fiber optic dental apparatus with a long flexible fiber optic light guide formed of a bundle of transparent fibers of glass or synthetic resin material. With reference to figure 1-3, and 6, Sadowski discloses that a pair of fiber optic light transmitters 22 are formed integrally with the annular illuminator head 19, and which join at a transition section 23 to form a unitary fiber optic light transmitter section 27 (Column 2, lines 45-49). As illustrated in figures 3 and 4, each individual fiber of the fiber optic bundle 22 is led to a position on an annulus surrounding the axis of the chuck 15 at which will be located the shaft of a drilling tool 17 (Column 3, line 34-37). An optional diffuser 55 may be applied covering the ends of the fibers 51. The purpose of such a diffuser is to broaden the beam emitted from each individual fiber in order to provide the desired uniform illumination of a circle positioned a distance S away from the illuminator head 19 (Column 3, lines 50-54).

Clearly the Sadowski reference falls out of the scope of the proposed main claim for at least the following reasons:

- It is not an instrument for high-precision or surgical applications of a minimally invasive nature. It is a dental tool.
- It does not comprise a distally positioned directable head, a shaft upon which the head is positioned, and a proximal end equipped for directing the directable head with reference to the shaft. The dental tool of Sadowski requires that the head 19 is fixed with reference to the shaft in order to accurately direct the beam of light transmitted by the fiber optics.
- It does not provide a ring of cables comprising longitudinally extending cables that connect to the directable head and to the proximal end. This measure pertains to providing an operational connection between the directable head and the proximal end so that by operating the proximal end the head is given its desired direction.

This is not present in Sadowski.

Sadowski therefore does not teach or suggest an instrument as defined in the present claims.

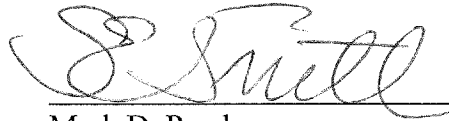
The independent claims are thus believed to be patentable over the cited prior art for at least the foregoing reasons. The dependent claims are also believed allowable because of their dependence upon an allowable base claim, and because of the further features recited.

## **II. Conclusion**

Applicant has made every effort to present claims which distinguish over the prior art, and it is thus believed that all claims are in condition for allowance. Nevertheless, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. In view of the foregoing remarks, Applicants respectfully request reconsideration and prompt allowance of the pending claims.

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Respectfully submitted,



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